

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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FAO-4051-2022 (O&M)
Date of decision: 22.09.2022

Cholamandlam MS General Insurance Co. Ltd.Appellant

Versus

Rajni Bala and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Punit Jain Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

The insurance company is in appeal against the award dated 25.04.2022 passed by learned Motor Accidents Claims Tribunal, Sangrur (for short, 'the Tribunal') wherein the following compensation was awarded to respondents No.1 to 4/claimants on account of death of Anil Kumar Goel in a Motor Vehicular Accident which took place on 14.12.2020:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.87,711/-
2.	Future prospects (30%)	Rs.26,313/-
3.	Monthly income after adding future prospects	Rs.1,14,024/-
4.	Monthly income tax	Rs.18,025/-
5.	Monthly income after deducting tax	Rs.95,999/-
6.	Dependency of the claimants after deductions towards personal and living expenses (1/3 rd)	Rs.64,000/-
7.	Multiplier	13
8.	Compensation after applying multiplier	Rs.64,000/- x 12 x 13 = Rs.99,84,000/-
9.	Medical Bills	Rs.1,25,403/-
10.	Loss of consortium to claimant No.1	Rs.40,000/-
11.	Loss of estate	Rs.15,000/-
12.	Funeral expenses	Rs.15,000/-
	Total compensation	Rs.1,01,79,403/-

Learned counsel appearing for the appellant insurance

company has challenged the impugned award on the following two counts:-

(i) **Involvement of the offending vehicle:-** Learned counsel submits that the involvement of the offending vehicle i.e. motorcycle bearing registration No.PB-13BL-1571 (hereinafter referred to as 'the offending vehicle') which was being driven at the time of accident in question by respondent No.5-Bikramjeet Singh was highly suspect. Rather, it was a case wherein the offending vehicle had been planted by the claimants just to extract compensation. It was submitted that as per the pleaded case of the claimants in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on the fateful day i.e. 14.12.2020 at about 07:45 P.M. when the deceased along with his wife i.e. respondent/claimant No.1-Rajni Bala was returning to their house after an evening walk, the offending vehicle came and struck against the deceased from the rear as a result of which the latter sustained serious injuries on his head and other parts of the body. Though, respondent No.5-driver stopped for a moment, however, he soon thereafter fled away along with his motorcycle. Learned counsel submits that had the offending vehicle actually been involved in the accident in question, respondent/claimant No.1-Rajni Bala, the alleged eye witness, while registering the FIR in question, would have surely given out the details including the registration number of the motorcycle, however, the FIR had been registered against an unknown driver of an unknown motorcycle. Thus, it was clearly a hit and run case and later on the basis of statement made by an alleged eye witness Surinder Kumar, the offending vehicle was involved in the

accident in question. He further submitted that it was strange and unbelievable that though the alleged eye witness Surinder Kumar accompanied the deceased and respondent/claimant No.1-Rajni Bala to the hospital after the accident in question, however, he chose not to disclose the details of the offending vehicle to the police on the same day as the accident, which further lent credence to the offending vehicle being not responsible for the accident in question.

(ii) Quantum of compensation:- Learned counsel has secondly challenged the compensation awarded to the claimants. It has been submitted that the compensation awarded is exorbitant and not in consonance with the settled law. It has been submitted that the Tribunal gravely erred in assessing the income of the deceased as Rs.95,999/- on the basis of notification issued by the State Government wherein salary of deceased employee was revised. Learned counsel submitted that the salary of the employees was no doubt revised but the notification was issued after the accident in question and after the death of the deceased, hence the Tribunal could not have taken the revised salary into account while assessing the salary of the deceased; in fact the Tribunal should have assessed the salary of the deceased by taking his pleaded gross income which was in the sum of Rs.73,877/- per month.

I have heard learned counsel and perused the relevant material on record.

The first challenge laid by the appellant insurance company qua the involvement of the offending vehicle being suspect is devoid of any merit and is thus rejected. It is a matter of record that soon after the accident in question on 14.12.2020 at about 07:45 P.M.

the deceased was removed to the hospital by respondent/claimant No.1 i.e. his wife as well as Surinder Kumar, eye witness. The FIR which was registered at the instance of respondent/claimant No.1 was a prompt one. It could not have been expected of respondent/claimant No.1 to have remembered or even notice the registration number of the offending vehicle when it struck against her deceased husband. It would have been but natural for respondent/claimant No.1-wife to first attend to her injured husband and shift him to the nearest medical facility instead of trying to note down the registration number and other details of the offending motorcycle. In this background, if she failed to give the relevant details of the offending vehicle at the time of the registration of the FIR, it certainly would not cast any shadow of doubt about the involvement of the offending vehicle in the accident in question. It also needs to be noticed here that respondent/claimant No.1 could not have been expected to know the name of the driver because it is not anyone's case that the driver was previously known to the respondent/claimant No.1 and that is precisely why she got the FIR in question registered against not only an unknown driver but also an unknown motorcycle. The contention of the learned counsel for the appellant that since even Surinder Kumar, the alleged eye witness, failed to disclose the registration number of the offending vehicle and name of the offending driver to respondent/claimant No.1 in the hospital, his presence at the time of accident was doubtful deserves to be rejected. It cannot be overemphasized that after the accident in question the first and the foremost concern would have been to save the life of the deceased and not to go about collecting the details of the

offending vehicle. Still further, Surinder Kumar, eye witness disclosed the details of the offending vehicle within two days of the accident in question. While stepping into the witness box both respondent/claimant No.1-Rajni Bala as well as Surinder Kumar supported the case of the claimants in its entirety with respect to the rash and negligent driving of respondent No.5 and though they were subjected to a lengthy cross-examination, however, nothing which could impeach their credibility, came up.

This Court does not find any force in the submissions made by the learned counsel qua the compensation being exorbitant and not being in consonance with the settled law. Rather, the Tribunal while awarding compensation has not adequately compensated the claimants (widow, minor son and the parents of the deceased) with respect to the loss of spousal, parental and filial consortium. The contention of the learned counsel that the income was wrongly assessed by the Tribunal in the sum of Rs.95,999/- cannot be accepted. No doubt the revised salary came into being on the basis of a notification issued by the Punjab Government, after the death of the deceased, however, it was to be applicable with retrospective effect. Had the deceased been alive, he too would have benefited out of the revised salary. In the circumstances, the Tribunal certainly did not commit any error while assessing the income of the deceased in the sum of Rs.95,999/-.

Accordingly, the instant appeal being devoid of any merit is dismissed.

22.09.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No